

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION,
PETITIONER, VS. THE COURT OF APPEALS, HON. ELIODORO B.
GUINTO, IN HIS CAPACITY AS PRESIDING JUDGE, BR. LVIII, RTC OF
ANGELES CITY AN...**

G.R. No. 93396. September 30, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

On May 3, 1988, the Philippine Amusement & Gaming Corporation (PAGCOR) terminated the services of private respondent Joel Montoya as Table Supervisor at Casino Filipino on the ground of loss of confidence. He was formally notified of this action on May 5, 1988.

Alleging that he had been dismissed without due process of law, Montoya lodged with the Regional Trial Court of Angeles City on June 7, 1988, a complaint for damages and attorney's fees against PAGCOR. PAGCOR filed a motion to dismiss challenging the jurisdiction of the court.

The movant contended that, being a money claim arising from the plaintiff's alleged illegal dismissal, the complaint was cognizable only by the labor arbiter and the National Labor Relations Commission. Montoya insisted, however, that PAGCOR was a government-controlled corporation created under PD 1869 and therefore not covered by the Labor Code.

The trial court denied the motion. In his Order dated November 18, 1988,[1] Judge Eliodoro B. Guinto applied the ruling in the case of *National Housing Authority v. Juico*[2] and held that PAGCOR, being a government-owned or controlled corporation, belonged to the Civil Service. Nevertheless, he added, PD 807 did not vest exclusive jurisdiction on the Civil Service Commission over complaints of government employees, as these could also come under the "broad and encompassing" jurisdiction of the regional trial courts under BP 129.

The order was affirmed on appeal in the decision of the respondent court dated February 16, 1990.[3] It was there held that the issue raised in the lower court did not involve a labor dispute because the allegations of the plaintiff were "not grounded on the dismissal per se but on the manner by which he was dismissed." Hence, it did not come under the jurisdiction of the labor authorities but of the courts of justice.

In the present petition, the Solicitor General argues that the respondent court erred in affirming the order of the trial court. He does not maintain the original stand of PAGCOR that the complaint should be resolved by the labor arbiters. Instead, he now asserts that; (a) PAGCOR is a part of the Civil Service and not a private corporation governed by the Labor Code; (b) the complaint filed by Montoya is cognizable by the Merit System Protection Board and not the Regional Trial Court; (c) the plaintiff has not exhausted administrative remedies; and (d) in any case, the termination of the plaintiff's service was not unlawful.

We gave due course to the petition and required the parties to submit their respective memoranda. After considering the same and the pertinent laws and jurisprudence, we find that the petition must be granted.

It must be stated at the outset that the ruling in the Juico Case has since been modified under the 1987 Constitution as applied in the later case of National Services Corporation v. NLRC.[4] It is now settled that, conformably to Article IX-B, Section 2(1), government-owned or controlled corporations shall be considered part of the Civil Service only if they have original charters, as distinguished from those created under general law.

PAGCOR belongs to the Civil Service because it was created directly by PD 1869 on July 11, 1983. Consequently, controversies concerning the relations of the employees with the management of PAGCOR should come under the jurisdiction of the Merit System Protection Board and the Civil Service Commission, conformably to the Administrative Code of 1987.

Section 16(2) of the said Code vests in the Merit System Protection Board the power inter alia to:

- (a) Hear and decide on appeal administrative cases involving officials and employees of the Civil Service. Its decision shall be final except those involving dismissal or separation from the service which may be appealed to the Commission.

Applying this rule, we have upheld the jurisdiction of the Civil Service authorities, as against that of the labor authorities, in controversies involving the terms of employment, and other related issues, of Civil Service officials and employees. Thus, in *Tanjay Water District v. Gabaton*,^[5] to take only one example, we held:

Significantly, Article IX(B), Section 2(1) of the 1987 Constitution provides that “(t)he civil service embraces all branches, subdivisions, instrumentalities, and agencies of the government, including government-owned or controlled corporations with original charters.” Inasmuch as PD 198, as amended, is the original charter of the petitioner, Tanjay Water District, and respondent Tarlac Water District and all water districts in the country, they come under the coverage of the civil service law, rules and regulations. (Sec. 35, Art. VIII and Sec. 37, Art. IX of PD 807.)

Like most rules, however, Section 16(2) is not without exception. We have held in a number of cases that labor arbiters exercise original and exclusive jurisdiction over conflicts between employees and their employers but not when the Labor Code is not involved. In *San Miguel Corporation v. NLRC*,^[6] we observed that “it is not necessary to suppose that the entire universe of money claims that might be asserted by workers against their employers has been absorbed into the original and exclusive jurisdiction of Labor Arbiters. Accordingly, we held that the regular courts had jurisdiction over claims not involving labor disputes in *Quisaba v. Sta. Ines-Melale Veneer and Plywood, Inc.*;^[7] *Medina v. Castro-Bartolome*;^[8] *Molave Motor Sales Inc. v. Laron*;^[9] *Singapore Airlines, Ltd. v. Paño*;^[10] *San Miguel Corporation v. NLRC*;^[11] and, only recently, *Pepsi-Cola Distributors of the Phils., Inc. v. Gal-lang*.^[12] The justification for this exception was explained by Justice Vicente Abad Santos in *Medina* thus:

It is obvious from the complaint that the plaintiffs have not alleged any unfair labor practice. Theirs is a simple action for damages for tortious acts allegedly committed by the defendants. Such being the case, the governing statute is the Civil Code and not the Labor Code. It results that the orders under review are based on a wrong premise.

A similar exception is applicable to the Civil Service authorities. There are also instances when the Merit System Protection Board and the Civil Service Commission have to yield jurisdiction to the civil courts even if the conflict involves civil servants.

Following the doctrine laid down in the above-mentioned cases, which we here apply by analogy, the Civil Service authorities will have jurisdiction over a case involving civil servants only if it can be regarded as equivalent to a labor dispute resolvable under the Labor Code. Conversely, the regular courts will have jurisdiction if the case can be decided under the general laws, as where the complaint is, say, for the recovery of private debts,

as in *Molave*; or for damages due to the slanderous remarks of the employer, as in *Medina*: or for malicious prosecution of the employees, as in *Pepsi Cola*. The mere fact that the parties are members of the Civil Service does not remove such controversies from the general jurisdiction of the courts of justice and place them under the special jurisdiction of the Board and the Commission.

It was the exception and not the rule that the respondent court applied in upholding the challenged order of the trial court denying the petitioner's motion to dismiss the complaint for damages. As the ponencia explained:

In the case at bar, a scrutiny of the records reveal private respondent's complaint specifically alleged that he was not claiming for reinstatement nor back wages or any labor-related benefits but damages arising from the manner by which he was dismissed by petitioner corporation which allegedly contravened the due process clause of the constitution. Private respondent claimed that petitioner never conducted a hearing with regard to his conduct as an employee of the said corporation but charged him of being dishonest in his work while he was then an employee of PAGCOR. Because of the gravity of the imputation, PAGCOR dismissed him from employment without any hearing at all in wanton disregard of his individual rights.

Seemingly, it would appear that the foregoing allegations of private respondent is not grounded on the dismissal per se but on the manner by which he was dismissed. This is the crux of private respondent's complaint — being oppressive as to constitute a proper case for civil action for damages.

After considering the issues and the arguments of the parties in their respective pleadings, we find we cannot agree with the respondent court.

The record shows that the separation of the private respondent was done in accordance with PD 1869, which provides that the employees of the PAGCOR hold confidential positions. Montoya is not assailing the validity of that law. The act that he is questioning is what he calls the arbitrary manner of his dismissal thereunder that he avers entitles him to damages under the Civil Code.

This is not an unfamiliar controversy. The labor cases reviewed by us where the employees claimed they had been illegally dismissed are numberless. The jurisdiction of the labor arbiters and the NLRC was never in issue because it was conceded that the applicable law was the Labor Code whose validity was assumed. What we were asked to resolve only was whether or not the procedure prescribed therein for the separation of employees had been observed. We never called on the civil courts to take over those cases from the labor authorities for there was no question that the latter had the competence to act. To do so now would be to reverse all those past decisions and cause undue trauma on settled jurisprudence.

A similar situation obtains in the case at bar for what the private respondent is asserting is that he has been illegally dismissed under PD 1869. He admits its validity; in fact, he is invoking it to support his claim for damages. The truth is that although he is claiming damages under the Civil Code, that claim is based on his submission that his separation was violative of PD 1869.

Shall we apply one rule for workers under the Labor Code and another rule for the herein private respondent because he belongs to the Civil Service?

Even as the labor authorities have original jurisdiction to interpret and apply the Labor Code, so too have the Civil Service authorities the original jurisdiction to resolve questions coming under PD 1869. The civil courts are excluded from either case because the general civil and criminal laws are not involved. Obviously, the same rule applied to workers in the private sector should also apply to civil servants, for what is sauce for the goose is sauce for the gander.

There is no parity between this case and the case of *Medina v. Castro-Bartolome*,^[13] because what the employees

were protesting in the latter case were the invectives hurled at them by their employer when they were dismissed. They were not questioning their dismissal before the court of justice. What they were claiming was damages for the slander committed against them when they were dismissed. The case at bar is different because the real issue here is the validity of the dismissal itself, not only the alleged lack of due process in the private respondent's separation. In fact, the issue goes deeper to, the very nature of the position occupied by Montoya.

PD 1869 provides in Section 16 thereof as follows:

Sec. 16. Exemption. — All positions in the Corporation, whether technical, administrative, professional or managerial are exempt from the provisions of the Civil Service Law, rules and regulations, and shall be governed only by the personnel management policies set by the Board of Directors. All employees of the casinos and related services shall be classified as "Confidential" appointee. (*Italics supplied.*)

The private respondent's services as a confidential appointee were terminated not by virtue of a dismissal or removal, which imports the separation of the incumbent before the expiration of his term.[14] Montoya did not have a fixed term of office. His tenure was dependent on his retention of the confidence of his superiors. That confidence was lost because of the disclosure of his involvement in the Angeles City casino scandal of 1984. He was separated because his term had expired as a result of the loss of confidence in him.[15]

Whether such loss of confidence had really been established is a matter that we believe should be determined in the first instance by the Civil Service authorities. Absent such a determination, the question of damages cannot be resolved as the two issues are inseparable. The trial court cannot make an independent finding that the private respondent is entitled to damages unless it is first ascertained that he was arbitrarily separated. This is a factual question best examined by the Civil Service authorities. Moreover, even if it be assumed that the Regional Trial Court of Angeles City has or may eventually exercise jurisdiction over the question of damages, the Solicitor General would still be correct in pointing out that the doctrine of exhaustion of administrative remedies has not been observed. There would be no cause of action before it at this time.

Our conclusion is that the trial court erred in denying the motion to dismiss and that the respondent court also erred in sustaining it. The issue raised by the private respondent, to wit, the correct interpretation and application of PD 1869, properly comes under the jurisdiction of the Merit System Protection Board, subject to appeal to the Civil Service Commission, and ultimately to review by this Court.

WHEREFORE, the petition is GRANTED. The appealed decision of the Court of Appeals dated February 16, 1990, and the resolution dated April 30, 1990, are REVERSED. The Regional Trial Court of Angeles City, Branch 57, is directed to DISMISS Civil Case No. 5412.

SO ORDERED.

Narvasa, (Chairman), Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 62-63.

[2] 134 SCRA 172.

[3] Torres, J., ponente, with Kapunan and Cui, JJ., concurring.

[4] 168 SCRA 122.

[5] 172 SCRA 253.

[6] 161 SCRA 719.

[7] 58 SCRA 771.

[8] 116 SCRA 597.

[9] 129 SCRA 485.

[10] 122 SCRA 671.

[11] Ibid.

[12] G.R. No. 89621, Sept. 24, 1991

[13] Ibid.

[14] Alajar v. Alba, 110 Phil. 683; Aparri v. Court of Appeals, 127 SCRA 231.

[15] Pacete v. Acting Chairman of the Commission on Audit, 185 SCRA 1; Cadiente v. Santos, 142 SCRA 280.

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